

studies to assist the Institute to serve United States industry and science. The subjects of such advice and studies may include—

- (1) the competitive position of the United States in key areas of manufacturing and emerging technologies and research activities which would enhance that competitiveness;
- (2) potential activities of the Institute, in cooperation with industry and the States, to assist in the transfer and dissemination of new technologies for manufacturing and quality assurance; and
- (3) identification and assessment of likely barriers to widespread use of advanced manufacturing technology by the United States workforce, including training and other initiatives which could lead to a higher percentage of manufacturing jobs of United States companies being located within the borders of our country.

(Mar. 3, 1901, ch. 872, §24, as added Pub. L. 100-418, title V, §5114(2), Aug. 23, 1988, 102 Stat. 1432.)

§ 278k. Regional Centers for the Transfer of Manufacturing Technology

(a) Creation and support of Centers; affiliations; merit review in determining awards; objectives

The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of Regional Centers for the Transfer of Manufacturing Technology¹ (hereafter in this chapter referred to as the “Centers”). Such centers² shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section in accordance with the description published by the Secretary in the Federal Register under subsection (c)(2) of this section. Individual awards shall be decided on the basis of merit review. The objective of the Centers is to enhance productivity and technological performance in United States manufacturing through—

- (1) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;
- (2) the participation of individuals from industry, universities, State governments, other Federal agencies, and, when appropriate, the Institute in cooperative technology transfer activities;
- (3) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;
- (4) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies; and
- (5) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute.

(b) Activities of Centers

The activities of the Centers shall include—

(1) the establishment of automated manufacturing systems and other advanced production technologies, based on research by the Institute, for the purpose of demonstrations and technology transfer;

(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

(3) loans, on a selective, short-term basis, of items of advanced manufacturing equipment to small manufacturing firms with less than 100 employees.

(c) Duration and amount of support; program descriptions; applications; merit review; evaluations of assistance; applicability of patent law

(1) The Secretary may provide financial support to any Center created under subsection (a) of this section for a period not to exceed six years. The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

(2) The Secretary shall publish in the Federal Register, within 90 days after August 23, 1988, a draft description of a program for establishing Centers, including—

- (A) a description of the program;
- (B) procedures to be followed by applicants;
- (C) criteria for determining qualified applicants;
- (D) criteria, including those listed under paragraph (4), for choosing recipients of financial assistance under this section from among the qualified applicants; and
- (E) maximum support levels expected to be available to Centers under the program in the fourth through sixth years of assistance under this section.

The Secretary shall publish a final description under this paragraph after the expiration of a 30-day comment period.

(3)(A) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on August 23, 1988, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2).

(B) In order to receive assistance under this section, an applicant for financial assistance under subparagraph (A) shall provide adequate assurances that non-Federal assets obtained from the applicant and the applicant's partnering organizations will be used as a funding source to meet not less than 50 percent of the costs incurred for the first 3 years and an increasing share for each of the last 3 years. For purposes of the preceding sentence, the costs incurred means the costs incurred in connection with the activities undertaken to improve the management, productivity, and technological performance of small- and medium-sized manufacturing companies.

(C) In meeting the 50 percent requirement, it is anticipated that a Center will enter into agreements with other entities such as private

¹ See Change of Name note below.

² So in original. Probably should be capitalized.

industry, universities, and State governments to accomplish programmatic objectives and access new and existing resources that will further the impact of the Federal investment made on behalf of small- and medium-sized manufacturing companies. All non-Federal costs,³ contributed by such entities and determined by a Center as programmatically reasonable and allocable under MEP program procedures are includable as a portion of the Center's contribution.

(D) Each applicant under subparagraph (A) shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.

(4) The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this subsection, the Secretary shall consider at a minimum (A) the merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors, (B) the quality of service to be provided, (C) geographical diversity and extent of service area, and (D) the percentage of funding and amount of in-kind commitment from other sources.

(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center's operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels. A Center that has not received a positive evaluation by the evaluation panel shall be notified by the panel of the deficiencies in its performance and shall be placed on probation for one year, after which time the panel shall re-evaluate the Center. If the Center has not addressed the deficiencies identified by the panel, or shown a significant improvement in its performance, the Director shall conduct a new competition to select an operator for the Center or may close the Center. After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed one third of the capital and annual operating and maintenance costs of the Center under the program.

(6) The provisions of chapter 18 of title 35 shall (to the extent not inconsistent with this sec-

tion) apply to the promotion of technology from research by Centers under this section except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director.

(d) Acceptance of funds

(1) In general

In addition to such sums as may be appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies and under section 272(c)(7) of this title from the private sector for the purpose of strengthening United States manufacturing.

(2) Allocation of funds

(A) Funds accepted from other Federal departments or agencies

The Director shall determine whether funds accepted from other Federal departments or agencies shall be counted in the calculation of the Federal share of capital and annual operating and maintenance costs under subsection (c).

(B) Funds accepted from the private sector

Funds accepted from the private sector under section 272(c)(7) of this title, if allocated to a Center, shall not be considered in the calculation of the Federal share under subsection (c) of this section.

(e) MEP Advisory Board

(1) Establishment

There is established within the Institute a Manufacturing Extension Partnership Advisory Board (in this subsection referred to as the "MEP Advisory Board").

(2) Membership

(A) In general

The MEP Advisory Board shall consist of 10 members broadly representative of stakeholders, to be appointed by the Director. At least 2 members shall be employed by or on an advisory board for the Centers, and at least 5 other members shall be from United States small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.

(B) Term

Except as provided in subparagraph (C) or (D), the term of office of each member of the MEP Advisory Board shall be 3 years.

(C) Classes

The original members of the MEP Advisory Board shall be appointed to 3 classes. One class of 3 members shall have an initial term of 1 year, one class of 3 members shall have an initial term of 2 years, and one class of 4 members shall have an initial term of 3 years.

(D) Vacancies

Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

³ So in original. The comma probably should not appear.

(E) Serving consecutive terms

Any person who has completed two consecutive full terms of service on the MEP Advisory Board shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

(3) Meetings

The MEP Advisory Board shall meet not less than 2 times annually, and provide to the Director—

(A) advice on Manufacturing Extension Partnership programs, plans, and policies;

(B) assessments of the soundness of Manufacturing Extension Partnership plans and strategies; and

(C) assessments of current performance against Manufacturing Extension Partnership program plans.

(4) Federal Advisory Committee Act

In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

(5) Report

The MEP Advisory Board shall transmit an annual report to the Secretary for transmittal to Congress within 30 days after the submission to Congress of the President's annual budget request in each year. Such report shall address the status of the program established pursuant to this section and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 278i of this title.

(f) Competitive grant program**(1) Establishment**

The Director shall establish, within the Centers program under this section and section 278l of this title, a program of competitive awards among participants described in paragraph (2) for the purposes described in paragraph (3).

(2) Participants

Participants receiving awards under this subsection shall be the Centers, or a consortium of such Centers.

(3) Purpose

The purpose of the program under this subsection is to develop projects to solve new or emerging manufacturing problems as determined by the Director, in consultation with the Director of the Centers program, the Manufacturing Extension Partnership Advisory Board, and small and medium-sized manufacturers. One or more themes for the competition may be identified, which may vary from year to year, depending on the needs of manufacturers and the success of previous competitions. These themes shall be related to projects associated with manufacturing extension activities, including supply chain integration and quality management, and including the transfer of technology based on the tech-

nological needs of manufacturers and available technologies from institutions of higher education, laboratories, and other technology producing entities, or extend beyond these traditional areas.

(4) Applications

Applications for awards under this subsection shall be submitted in such manner, at such time, and containing such information as the Director shall require, in consultation with the Manufacturing Extension Partnership Advisory Board.

(5) Selection

Awards under this subsection shall be peer reviewed and competitively awarded. The Director shall select proposals to receive awards—

(A) that utilize innovative or collaborative approaches to solving the problem described in the competition;

(B) that will improve the competitiveness of industries in the region in which the Center or Centers are located; and

(C) that will contribute to the long-term economic stability of that region.

(6) Program contribution

Recipients of awards under this subsection shall not be required to provide a matching contribution.

(Mar. 3, 1901, ch. 872, §25, as added Pub. L. 100-418, title V, §5121(a), Aug. 23, 1988, 102 Stat. 1433; amended Pub. L. 102-245, title I, §105(e), Feb. 14, 1992, 106 Stat. 12; Pub. L. 105-309, §2, Oct. 30, 1998, 112 Stat. 2935; Pub. L. 110-69, title III, §3003, Aug. 9, 2007, 121 Stat. 587.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e)(4), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2007—Subsec. (c)(3). Pub. L. 110-69, §3003(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on August 23, 1988, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2). In order to receive assistance under this section, an applicant shall provide adequate assurances that it will contribute 50 percent or more of the proposed Center's capital and annual operating and maintenance costs for the first three years and an increasing share for each of the last three years. Each applicant shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.”

Subsec. (c)(5). Pub. L. 110-69, §3003(b), inserted “A Center that has not received a positive evaluation by the evaluation panel shall be notified by the panel of the deficiencies in its performance and shall be placed on probation for one year, after which time the panel shall reevaluate the Center. If the Center has not addressed the deficiencies identified by the panel, or shown a significant improvement in its performance, the Director shall conduct a new competition to select an operator for the Center or may close the Center.” after “at declining levels.”

Subsec. (d). Pub. L. 110-69, §3003(c), added subsec. (d) and struck out former subsec. (d). Text of former subsec. (d) read as follows: “In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.”

Subsec. (e). Pub. L. 110-69, §3003(d), added subsec. (e). Subsec. (f). Pub. L. 110-69, §3003(e), added subsec. (f). 1998—Subsec. (c)(5). Pub. L. 105-309 substituted “. After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed one third of the capital and annual operating and maintenance costs of the Center under the program.” for “, which are designed to ensure that the Center no longer needs financial support from the Institute by the seventh year. In no event shall funding for a Center be provided by the Department of Commerce after the sixth year of the operation of a Center.”

1992—Subsec. (c)(6). Pub. L. 102-245, §105(e)(1), inserted before period at end “except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director”.

Subsec. (d). Pub. L. 102-245, §105(e)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “There are authorized to be appropriated for the purposes of carrying out this section, a combined total of not to exceed \$40,000,000 for fiscal years 1989 and 1990. Such sums shall remain available until expended.”

CHANGE OF NAME

Pub. L. 108-447, div. B, title II, Dec. 8, 2004, 118 Stat. 2879, provided in part: “That hereafter the Manufacturing Extension Partnership Program authorized under 15 U.S.C. 278k shall be renamed the Hollings Manufacturing Partnership Program and the centers established and receiving funding under 15 U.S.C. 278k paragraph (a) shall be named the Hollings Manufacturing Extension Centers.”

AGREEMENTS AND CONTRIBUTIONS FOR COLLECTIVE RESEARCH AND DEVELOPMENT INITIATIVES

Pub. L. 108-7, div. B, title II, Feb. 20, 2003, 117 Stat. 73, provided in part: “That hereafter the Secretary of Commerce is authorized to enter into agreements with one or more nonprofit organizations for the purpose of carrying out collective research and development initiatives pertaining to 15 U.S.C. 278k paragraph (a), and is authorized to seek and accept contributions from public and private sources to support these efforts as necessary.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 107-77, title II, Nov. 28, 2001, 115 Stat. 774.

ADDITIONAL RENEWAL OF FEDERAL FINANCIAL ASSISTANCE FOR CENTERS

Pub. L. 105-277, div. A, §101(b) [title II], Oct. 21, 1998, 112 Stat. 2681-50, 2681-83, which provided that Federal financial assistance awarded by the Secretary of Commerce to a Regional Center for the Transfer of Manufacturing Technology could continue beyond six years and could be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center's total annual costs or the level of funding in the sixth year, whichever was less, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that con-

tinuation of Federal funding to the Center was in the best interest of the Regional Centers for the Transfer of Manufacturing Technology Program, was from the Departments of Commerce Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, and was not repeated in subsequent appropriations Acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-119, title II, Nov. 26, 1997, 111 Stat. 2476.

Pub. L. 104-208, div. A, title I, §101(a) [title II], Sept. 30, 1996, 110 Stat. 3009, 3009-36.

Pub. L. 103-317, title II, Aug. 26, 1994, 108 Stat. 1741.

PUBLICATION IN FEDERAL REGISTER

Pub. L. 100-519, title I, §102(d), Oct. 24, 1988, 102 Stat. 2590, provided that: “The requirement of section 25(c)(2) of the Act of March 3, 1901, [15 U.S.C. 278k(c)(2)], shall be considered to have been met by the publication made by the National Bureau of Standards on July 18, 1988 (53 Fed. Reg. 27060).”

§ 278I. Assistance to State technology programs

(a) In addition to the Centers program created under section 278k of this title, the Secretary, through the Director and, if appropriate, through other officials, shall provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology.

(b) Such assistance from the Institute to State technology programs shall include, but not be limited to—

(1) technical information and advice from Institute personnel;

(2) workshops and seminars for State officials interested in transferring Federal technology to businesses; and

(3) entering into cooperative agreements when authorized to do so under this chapter or any other Act.

(Mar. 3, 1901, ch. 872, §26, as added Pub. L. 100-418, title V, §5121(a), Aug. 23, 1988, 102 Stat. 1435.)

TECHNOLOGY EXTENSION SERVICES

Section 5121(b), (c) of Pub. L. 100-418, as amended by Pub. L. 102-245, title I, §105(d), Feb. 14, 1992, 106 Stat. 12, provided that:

“(b) TECHNOLOGY EXTENSION SERVICES.—(1) The Secretary shall conduct a nationwide study of current State technology extension services. The study shall include—

“(A) a thorough description of each State program, including its duration, its annual budget, and the number and types of businesses it has aided;

“(B) a description of any anticipated expansion of each State program and its associated costs;

“(C) an evaluation of the success of the services in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;

“(D) an assessment of the degree to which State services make use of Federal programs, including the Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

“(E) a survey of what additional Federal information and technical assistance the services could utilize; and